

## FEDERAL ELECTION COMMISSION

# Instructions for Report of Independent Expenditures Made and Contributions Received (FEC FORM 5)

## WHO MUST FILE

Every person, group of persons or organization, other than a political committee, that makes independent expenditures aggregating in excess of \$250 during a calendar year must report these expenditures by submitting FEC Form 5 or a signed statement satisfying the requirements of 11 CFR 109.2(a)(1). (Political committees that make independent expenditures shall report them on FEC Form 3X, Schedule E.)

Corporations that make independent expenditures must also submit these reports, and must certify that they are a qualified nonprofit corporation that is exempt from the prohibition on independent expenditures under 11 CFR 114.10.

NOTE: Individuals and other persons (including qualified nonprofit corporations) must file this form in an electronic format under 11 CFR 104.18 if they make independent expenditures in excess of \$50,000 in a calendar year, or if they have reason to expect that they will exceed this threshold during the calendar year. If you have reached this level of activity, you must file this form in an electronic format. Contact the FEC for more information on filing electronically.

## DEFINITIONS

**Contribution** means any gift, subscription, loan, advance or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office.

**Independent expenditure** means an expenditure by a person for a communication expressly advocating the election or defeat of a clearly identified candidate that is not made with the cooperation or prior consent of, in consultation with, or at the request or suggestion of, a candidate or an agent or authorized committee of a candidate. For a definition of “expressly advocating,” see 11 CFR 100.22.

**Date Made** means the first date on which the communication is published, broadcast or otherwise publicly disseminated. A communication that is mailed is considered to be publicly disseminated when it is relinquished to the US Postal Service. See 109.2(f).

**Qualified nonprofit corporation** is a corporation with the following characteristics: **(a)** Its only express purpose is the promotion of political ideas (i.e., issue advocacy, election influencing activity and research, training or educational activity expressly tied to its political goals); **(b)** It cannot engage in business activities; **(c)** It does not have **(1)** shareholders or persons (other than employees and creditors) who are affiliated in a way that could allow them to make a claim on its assets or earnings; or **(2)** persons who receive a benefit that is a disincentive for them to disassociate themselves with the corporation on the basis of the corporation’s position on a political issue; **(d)** It was not established by a business corporation or labor organization, does not accept donations from business corporations or labor organizations; and if unable, for good cause, to demonstrate that it has not accepted such donations, has a written policy against accepting donations from business corporations or labor organizations; and **(e)** It is described in 26 U.S.C. § 501(c)(4). (See 11 CFR 114.10.)

**Name of Employer** means the organization or person by whom an individual is employed, rather than the name of his or her supervisor. Individuals who are self-employed should indicate “self-employed.”

**Occupation** means the principal job title or position of an individual.

**Purpose** means a brief statement or description of why the disbursement was made.

## WHEN TO FILE

File reports of independent expenditures for the reporting period in which these expenditures aggregate in excess of \$250 for the calendar year, and for any subsequent reporting period that year in which additional independent expenditures of any amount are made. The reporting periods are described below.

Corporations must certify that they are qualified nonprofit corporations under 11 CFR 114.10 when they submit their first independent expenditure report.

### Election year reporting

Election years are divided into quarterly, pre-election and post-general election reporting periods. All reports must disclose all reportable contributions received and independent expenditures made from the closing date of the last report filed through the end of the reporting period for which the report is submitted. The reporting periods are as follows:

**Quarterly reports.** Quarterly reports are due April 15, July 15 and October 15 of the election year and January 31 of the nonelection year, and must disclose all reportable activity through the end of the calendar quarter. However, a quarterly report need not be filed if a pre-election report is due 5 to 15 days after the close of that calendar quarter.

**Pre-election reports.** Pre-election reports are also required when independent expenditures are made during the pre-election period. These reports are due no later than the 12th day before the election, and must disclose all reportable activity from the closing date of the last report filed through the end of the 20th day before any primary or general election. Pre-election reports sent by certified or registered mail must be mailed no later than the 15th day before the election.

**Post-general election reports.**

Post-general election reports are due no later than 30 days after the general election, and must disclose all reportable activity from the closing date of the last report filed through the end of the 20th day after the general election.

**Special election reporting**

The Commission establishes separate reporting schedules for special elections. Contact the Commission for special election reporting dates.

**Nonelection year reporting**

Nonelection years are divided into semiannual reporting periods. The Mid-Year Report, covering January 1 to June 30 is due on July 31, and the Year-End report, covering July 1 to December 31, is due on January 31 of the following year.

**24 hour reports**

In addition to the reports listed above, reports of independent expenditures aggregating \$1,000 or more made after the twentieth day but more than 24 hours before 12:01 A.M. of the day of the election must be received no later than 24 hours after the independent expenditure is made. Note that, if a disbursement is made before the communication is disseminated, the filer voluntarily may use the earlier date of a disbursement, rather than the date of the dissemination of the communication, to calculate when the independent expenditure is reported. These reports must contain the information listed in 11 CFR 104.3(b)(3)(vii) and 109.2(a)(1), including a statement indicating whether the independent expenditure was in support of, or in opposition to, a particular candidate and a verified certification under penalty of perjury as to whether such expenditure was made in cooperation, consultation or concert with, or at the request or suggestion of any candidate or authorized committee or agent thereof. This report shall be filed with the appropriate office (listed below). Filers other than electronic filers may submit 24-hour reports by fax (to 202-219-0174) or electronic mail. All filers may submit 24-hour reports online at [www.fec.gov](http://www.fec.gov).

**WHERE TO FILE**

File all reports of independent expenditures (except those supporting or opposing only candidates for the U.S. Senate) with the Federal Election Commission, 999 E Street, N.W., Washington, DC 20463. File reports of independent expenditures supporting or opposing only candidates for the U.S. Senate with the Secretary of the Senate, Office of Public Records, 232 Hart Senate Office Building, Washington, DC 20510-7116.

Submit a copy of this form to the Secretary of State (or appropriate state officer) as indicated below:

- For reports of independent expenditures supporting or opposing a candidate for the House or Senate, submit a copy to the state in which the candidate seeks election, with the exception of those states that have qualified for the Commission's state filing waiver program.
- For reports of independent expenditures supporting or opposing a candidate for President or Vice President, submit a copy to the state in which the expenditure is made, with the exception of those states that have qualified for the Commission's state filing waiver program.

A list of qualified states is available from the Commission.

Persons filing independent expenditure reports should retain copies of their reports for a period of not less than 3 years from the date of filing.

**LINE BY LINE INSTRUCTIONS**

LINE 1. Provide the requested information.

LINE 2. Corporate filers—indicate if you are a qualified nonprofit corporation. Individual filers—provide the name of your employer and your occupation.

LINE 3. First time filers—leave this line blank. Previous filers with an identification number—enter that number.

LINE 4. (a). Indicate the type of report being filed. For 12 day pre-election reports, indicate primary, general, convention, special or run-off election, date of election, and State. For 30 day

post-general election reports, provide the date and State of the election.

(b). Indicate if the report is an amendment.

LINE 5. Enter report coverage dates. Include all activity from the ending coverage date of the last report filed. When submitting multiple forms for a single period, indicate the current page number and total pages submitted for the period.

LINE 6. Report contribution(s) received in excess of \$200 that were made for the purpose of furthering an independent expenditure. Submit multiple forms if additional space is required.

LINE 7. Fill in the requested information for all independent expenditure(s) made during the reporting period. Submit multiple forms if additional space is required. For each expenditure, report the first date on which the communication is published, broadcast or otherwise publicly disseminated.

LINE 8. Enter total contributions received during the reporting period, including contributions of \$200 or less that were not itemized on Line 6. When submitting multiple forms for a single period, enter total on page 1.

LINE 9. Enter the total amount of independent expenditures made during this reporting period. When submitting multiple forms for a single period, enter total on page 1.

**Verification**

FEC FORM 5 must be signed by the person making the independent expenditure, who is making a verified certification under penalty of perjury that the expenditure was not made in cooperation, consultation or concert with, or at the request or suggestion of any candidate or authorized committee or agent.